



# Civic Government (Scotland) Act 1982

## 1982 CHAPTER 45

### PART IV

#### OFFENCES, POWERS OF CONSTABLES, ETC.

##### *Offences of annoying, offensive, obstructive or dangerous behaviour*

#### [<sup>F1</sup>51C Extreme pornography: defences

- (1) Where a person (“A”) is charged with an offence under section 51A, it is a defence for A to prove one or more of the matters mentioned in subsection (2).
- (2) The matters are—
  - (a) that A had a legitimate reason for being in possession of the image concerned,
  - (b) that A had not seen the image concerned and did not know, nor had any cause to suspect, it to be an extreme pornographic image,
  - (c) that A—
    - (i) was sent the image concerned without any prior request having been made by or on behalf of A, and
    - (ii) did not keep it for an unreasonable time.
- (3) Where A is charged with an offence under section 51A, it is a defence for A to prove that—
  - (a) A directly participated in the act depicted, and
  - (b) subsection (4) applies.
- (4) This subsection applies—
  - (a) in the case of an image which depicts an act described in subsection (6)(a) of that section, if the act depicted did not actually take or threaten a person's life,
  - (b) in the case of an image which depicts an act described in subsection (6)(b) of that section, if the act depicted did not actually result in (nor was it actually likely to result in) a person's severe injury,

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*Status: Point in time view as at 22/01/2018.*

*Changes to legislation: Civic Government (Scotland) Act 1982, Section 51C is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- (c) in the case of an image which depicts an act described in subsection (6)(c) of that section, if the act depicted did not actually involve non-consensual activity,
  - (d) in the case of an image which depicts an act described in subsection (6)(d) of that section, if what is depicted as a human corpse was not in fact a corpse,
  - (e) in the case of an image which depicts an act described in subsection (6)(e) of that section, if what is depicted as an animal (or the carcass of an animal) was not in fact an animal (or a carcass).
- (5) The defence under subsection (3) is not available if A shows, gives or offers for sale the image to any person who was not also a direct participant in the act depicted.
- (6) In this section “image” and “extreme pornographic image” are to be construed in accordance with section 51A.]

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**Textual Amendments**

- F1** Ss. 51A-51C inserted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. [42\(2\)](#), [206\(1\)](#); S.S.I. 2011/178, art. 2, sch. (with sch.)

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